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UNITED STATES MAGISTRATE COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

SCOTT ANTHONY LAMONICO,

Defendant.

No. 3 05 70329 EDL

ORDER AND STIPULATION FOR
CONTINUANCE FROM JULY 26, 2005
TO SEPTEMBER 7, 2005 AND
EXCLUDING TIME FROM THE SPEEDY
TRIAL ACT CALCULATION (18 U.S.C. §
3161(h)(8)(A)) AND WAIVING TIME
LIMITS UNDER RULE 5.1

With the agreement of the parties, and with the consent of the defendant, the Court enters this order scheduling an arraignment or preliminary hearing date of September 7, 2005 at 9:30A.M. before the duty magistrate judge, and documenting the defendant's waiver of the preliminary hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(b), from July 26, 2005, to September 7, 2005. The parties agree, and the Court finds and holds, as follows:

1. The defendant has been released on a bond.

2. The United States is providing defense counsel with additional discovery which defense counsel will require adequate time to review.

3. Defendant's counsel of record, Ronald Tyler, will be out of the office for two weeks during August, 2005.

1 4. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C. §
 2 3161(h)(8)(B)(iv) for continuity of counsel and to provide reasonable time necessary for effective
 3 preparation, taking into account the exercise of due diligence.

4 5. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for
 5 preliminary hearing.

6 6. Counsel for the defense believes that postponing the preliminary hearing is in his
 7 client's best interest, and that it is not in his client's interest for the United States to indict the
 8 case during the normal 20-day timeline established in Rule 5.1.

9 7. After a hearing on this matter on July 26, 2005, the Court finds that, taking into
 10 account the public interest in the prompt disposition of criminal cases, these grounds are good
 11 cause for extending the time limits for a preliminary hearing under Federal Rule of Criminal
 12 Procedure 5.1. Given these circumstances, the Court finds that the ends of justice served by
 13 excluding the period from July 26, 2005 to September 7, 2005, outweigh the best interest of the
 14 public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A).

15 7. Accordingly, and with the consent of the defendant, the Court (1) sets a preliminary
 16 hearing date before the duty magistrate judge on September 7, 2005, at 9:30A.M., and (2) orders
 17 that the period from July 26, 2005 to September 7, 2005 be excluded from the time period for
 18 preliminary hearings under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial Act
 19 calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

20 IT IS SO STIPULATED:

21 DATED: 8/3/05


 RONALD TYLER
 Assistant Federal Public Defender

23 DATED: 7/26/05


 MICHELLE MORGAN-KELLY
 Assistant United States Attorney

25 IT IS SO ORDERED.

26 DATED: 8/22/05


 EDWARD M. CHEN
 United States Magistrate Judge